

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT T. BROCKMAN,

Defendant.

§ Cr. No. 4:21cr 009 GCH

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UNITED STATES’S MOTION TO STRIKE

On July 6, 2021 Defendant filed a motion to compel discovery regarding Defendant’s competency hearing (*Dkt. No. 81*). The government submits that Defendant’s motion is untimely, in violation of the Court’s Procedural Rules, and should be stricken.

While the parties did exchange letters regarding requests for discovery On March 16th and March 25, 2021, and emails on June 22d and June 23, 2021, Defendant has failed to follow the Court’s procedures for discovery disputes which require a joint letter to the Court and a request for a conference *before* a motion can be filed. Defendant’s counsel has not drafted or proposed a joint letter outlining the disputed discovery issues for the Court, nor have they requested a discovery conference with the Court. The Court’s Procedural Rules are quite clear and explicit regarding discovery disputes: “a conference with the Court must be sought by a joint letter filed with the Court.” *Court’s Procedural Rule 6(E)(1)*. The parties’ joint letter must also be filed on the CM/ECF system. *Court’s Procedural Rule 1(E)(1)*. The Court’s Procedural Rules continue: “If a written motion is necessary, the issues to be addressed and a briefing schedule will be set during the conference.” *Court’s Procedural Rule 6(E)(2)*. Defendant’s

counsel has failed to follow these rules before filing their motion to compel discovery. The government has informed Defendant's counsel of its intent to file this, and they oppose it.

Accordingly, the government respectfully requests that Defendant's Motion to Compel Discovery (*Dkt. No. 81*) be stricken from the record as untimely and in violation of the Court's Procedural Rules.

Respectfully submitted this 9th day of July 2021,

DAVID A. HUBBERT
Acting Assistant
Attorney General
Tax Division

s/ Corey J. Smith
COREY J. SMITH
Senior Litigation Counsel
Department of Justice
Tax Division
Mass Bar No. 553615
corey.smith@usdoj.gov
Tele: (202) 514-5230
LEE LANGSTON
CHRISTOPHER MAGNANI
Trial Attorneys
Department of Justice
Tax Division

Attorneys for United States of America

Certificate of Service

I the undersigned do hereby certify that on the 9th day of July, 2021, I electronically filed the foregoing with the Clerk of Court using the ECF electronic filing system, which will send notice of electronic filing to Defendant's counsel of record.

/s/ Corey J. Smith
Senior Litigation Counsel
Department of Justice
Tax Division
Corey.Smith@usdoj.gov
(202)514-5230

Certificate of Conference

I the undersigned do hereby certify that on July 8, 2021 government counsel contacted Defendant's counsel of record by email to inquire on their position regarding the instant Motion. Defendant's counsel of record stated their opposition.

/s/ Corey J. Smith
Senior Litigation Counsel
Department of Justice
Tax Division
Corey.Smith@usdoj.gov
(202)514-5230